

REMARKS

Claims 66-152 are pending in the application. Claims 106-152 have been withdrawn from consideration. Claims 66-105 have been rejected.

Specification

The Specification has been objected to on the basis that the recitation in line 2 of claim 90 of “one or more distribution bars” does not appear in the specification. Responsive thereto, and pursuant to the suggestion proffered by the Examiner, Applicants have amended the Specification. Applicants therefore request that this rejection be withdrawn. Applicants submit that no new matter has been added.

Claim Rejections – 35 U.S.C. § 112

Claim 91 was rejected under 35 U.S.C. § 112 on the basis that the shaft “comprises a single hydraulic motor” recited in claim 91 does not in the original specification. Without conceding the issue, Applicants have cancelled claim 91, thereby making this issue moot. It is thus requested that the rejection be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Claims 66, 68, 72, 81, 85, 89, 93-96, 102, 104 and 105 were rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,534,042 to Tsuchida (“Tsuchida”).

The Examiner relies on Tsuchida for the teaching of an apparatus for forming compost that includes a tank or enclosed vessel (1) having a rotary vane (3) that has a shaft and is used to grind the compost material within the tank. According to the Examiner’s summary, the rotary vane is driven by a motor (5) with a lid (2) that is used to load the compost into the container and is capable of allowing the compost in the second zone to be removed from the tank. Air or oxygen is sent into the tank by a ventilation control valve.

Applicants respectfully request that the Section 102 rejection be withdrawn because Tsuchida fails to identically disclose each element recited in Applicants' amended claim 66. "For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference." Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 677 (Fed. Cir. 1988). Specifically, it is important to note that the apparatus and process disclosed by Tsuchida does not relate to an aerated exothermic biological composting process. It is to be noted that Tsuchida employs an external heat source (in the form of a heat medium, heated to a temperature of about 80°C to 135°C circulated in the outer jacket of the treatment tank).

In comparison, the present invention relates to an *aerobic, exothermic* composting. A source of oxygen is employed to maintain the necessary aerobic conditions within the vessel to ensure aerobic composting of the waste material. It will be noted from the description of the invention that what is disclosed is an *exothermic* process.

In essence, therefore, the two processes are quite distinct and claim 66 has been amended to draw out this distinction.

Additionally, claim 66 has been amended to recite that the "size reduction means" comprises one or more rotatable bars, blades or cutting plates mounted on, and rotatable with, the rotatable shaft and one or more fixed bars, blades or cutting plates mounted on the sidewalls of the interior of the vessel. It is this combination of fixed and rotating elements which ensures the reduction in size of the waste material as it passes from the first region of the vessel through to the second region. Again, this is not disclosed by Tsuchida.

This feature was similarly recited in claim 73, which was rejected under 35 U.S.C. § 103 as obvious over Tsuchida in view of US patent 5,258,306 to Goldfarb. In Goldfarb, the rotatable bars (4) are supported at both ends. More particularly, at the end in proximity to the interior of the vessel wall, the rotatable bars are supported and guided by a ring gear system

comprising a gear 40 and a geared track 44. This system is mechanically complex, expensive to manufacture and prone to problems in operation due to the gear system becoming fouled with compost material.

In comparison, claim 66 has been amended to recite that the rotating bars are *cantilevered* (i.e. supported at one end only).

In summary, claim 66 is clearly distinguishable over the Tsuchida reference, and Applicants therefore respectfully request that the Section 102 rejection be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 67, 69-71, 73-79, 80, 82, 83, 84, 86-88, 90, 91, 92, 97, 99, 100, 101 and 103 have been rejected over Tsuchida in view of various other prior art. However, in view of the amendment to claim 66, Applicants submit that none of the combinations of references used for the obviousness rejections consider all of Applicants' claim limitations. See, e.g. In re Fine (Board erred by failing to appreciate that the claims can be distinguished over the references.) That is, none of the combinations of references relied upon by the Examiner disclose a size reduction means for reducing the size of waste material introduced to the vessel, wherein the size reduction means divides the interior vessel space into first and second regions and defines a zone of size reduction through which waste material must pass as it passes through the vessel, and the size reduction means comprises one or more cantilevered bars, blades or cutting plates mounted on the rotatable shaft and rotatable with the shaft, and one or more mixed bars, blades or cutting plates mounted on and extending from the side walls, wherein the rotatable and fixed bars, blades or cutting plates co-operate together to reduce the size of the waste material as the waste material passes through the size reduction means. Applicants thus respectfully request that all obviousness rejections be withdrawn.

CONCLUSION

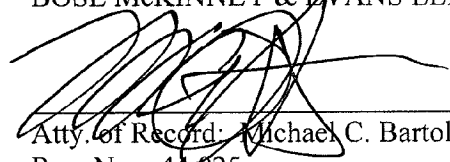
Applicants submit that all pending claims are allowable, and earnestly solicit allowance thereof.

In the event that there are any questions related to this response or the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application.

If necessary, Applicants request that this response be considered a request for an extension of time for a time appropriate for the response to be timely filed. Please charge any fees that may be due in connection with this Response to Bose McKinney & Evans LLP's Deposit Account No. 02-3223.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP



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